

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

TYRONE NOEL NUNN,

Plaintiff,

v.

DEPARTMENT OF CORRECTIONS, *et al.*,

Defendants.

Case No. 2:24-cv-01641-RFB-DJA

ORDER

I. INTRODUCTION

Plaintiff Tyrone Nunn brings this civil-rights action under 42 U.S.C. § 1983 to redress constitutional violations that he claims he suffered while incarcerated at High Desert State Prison. (ECF No. 1-1). On September 10, 2024, this Court ordered Nunn to either pay the full \$405 filing fee or file a complete application to proceed in forma pauperis by November 12, 2024. (ECF No. 3). That deadline expired without payment of the filing fee or a complete in forma pauperis application by the plaintiff. Nunn instead filed a document titled “in forma pauperis” that simply states “28 U.S.C. § 1915a.” (ECF No. 4).

II. DISCUSSION

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. Thompson v. Hous. Auth. of City of Los Angeles, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based on a party’s failure to obey a court order or comply with local rules. See Carey v. King, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring pro se plaintiffs to keep court apprised of address); Malone v. U.S. Postal

1 Service, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order). In
2 determining whether to dismiss an action on one of these grounds, the Court must consider: (1) the
3 public's interest in expeditious resolution of litigation; (2) the Court's need to manage its docket;
4 (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on
5 their merits; and (5) the availability of less drastic alternatives. See In re Phenylpropanolamine
6 Prod. Liab. Litig., 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting Malone, 833 F.2d at 130).

7 The first two factors, the public's interest in expeditiously resolving this litigation and the
8 Court's interest in managing its docket, weigh in favor of dismissal of Nunn's claims. The third
9 factor, risk of prejudice to defendants, also weighs in favor of dismissal because a presumption of
10 injury arises from the occurrence of unreasonable delay in filing a pleading ordered by the court
11 or prosecuting an action. See Anderson v. Air West, 542 F.2d 522, 524 (9th Cir. 1976). The fourth
12 factor—the public policy favoring disposition of cases on their merits—is greatly outweighed by
13 the factors favoring dismissal.

14 The fifth factor requires the Court to consider whether less drastic alternatives can be used
15 to correct the party's failure that brought about the Court's need to consider dismissal. See Yourish
16 v. Cal. Amplifier, 191 F.3d 983, 992 (9th Cir. 1999) (explaining that considering less drastic
17 alternatives before the party has disobeyed a court order does not satisfy this factor); accord
18 Pagtalunan v. Galaza, 291 F.3d 639, 643 & n.4 (9th Cir. 2002). Courts “need not exhaust every
19 sanction short of dismissal before finally dismissing a case but must explore possible and
20 meaningful alternatives.” Henderson v. Duncan, 779 F.2d 1421, 1424 (9th Cir. 1986). Because
21 this Court cannot operate without collecting reasonable fees, and litigation cannot progress without
22 a plaintiff's compliance with court orders, the only alternative is to enter a second order setting
23 another deadline. But issuing a second order will only delay the inevitable and further squander
24 the Court's finite resources. Indeed, Nunn has filed over 80 pro se lawsuits in this district since
25 July 2023.¹ Dozens of these lawsuits have been dismissed because, like here, Nunn failed to correct
26 fundamental defects with them like filing a single, signed complaint and either paying the filing
27

28 ¹ The Court takes judicial notice of the online docket records of the U.S. Courts, which
may be accessed by the public at: <https://pacer.uscourts.gov>.

1 fee or filing a complete application to proceed in forma pauperis. See, e.g., Nunn v. Dep't of Corr.,
2 Case No. 3:24-cv-00050-ART-CLB, ECF No. 4 (D. Nev. Nov. 20, 2024) (collecting cases).
3 Setting another deadline is not a meaningful alternative given these circumstances. Thus, the fifth
4 factor favors dismissal. Having thoroughly considered these dismissal factors, the Court finds that
5 they weigh in favor of dismissal.

6 **III. CONCLUSION**

7 **IT IS THEREFORE ORDERED** that this action is dismissed without prejudice based on
8 Tyrone Nunn's failure to address the matter of the filing fee in compliance with this Court's
9 September 10, 2024, order. The Clerk of Court is directed to enter judgment accordingly and close
10 this case. No other documents may be filed in this now-closed case. If Tyrone Nunn wishes to
11 pursue his claims, he must file a complaint in a new case and either pay the full filing fee or
12 complete an in forma pauperis application.

13
14 **DATED:** April 9, 2025

15
16
17 

18 **RICHARD F. BOULWARE, II**
19 **UNITED STATES DISTRICT JUDGE**
20
21
22
23
24
25
26
27
28